

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:12-cv-00246-MR-DLH**

**JAMES R. LEBLOW,**

**Plaintiff,**

**vs.**

**BAC HOME LOANS SERVICING, LP;  
BANK OF AMERICA; HOME  
OWNERS LOAN CORPORATION;  
US MORTGAGE CORPORATION;  
COUNTRYWIDE HOME LOANS, INC.;  
MERSCORP; BANK OF NEW YORK  
MELLON; BROCK & SCOTT, PLLC;  
and RATESTAR, INC.,**

**Defendants.**

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**ORDER**

**THIS MATTER** is before the Court on the Defendants' Motions to Dismiss [Docs. 13, 14, 32] and the Magistrate Judge's Memorandum and Recommendation [Doc. 33] regarding the disposition of those motions.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the motions to dismiss and to submit a recommendation for their disposition.

On May 3, 2013, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed conclusions of law in support of a recommendation regarding the Defendants' motions. [Doc. 33]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 33], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that the Defendants' Motions to Dismiss should be granted and the Plaintiff's claims against the Defendants Bank of America, BAC Home Loans Servicing, LP, The Bank of New York Mellon, MERSCORP, Countrywide Home Loans Inc., Home Owners Loan Corporation, and Brock & Scott, PLLC should be dismissed.

With the dismissal of the above-referenced Defendants, the only Defendants remaining in this action are US Mortgage Corporation and Ratestar, Inc. The record fails to indicate, however, that the Plaintiff has served these Defendants.

Rule 4(m) of the Federal Rules of Civil Procedure provides, in pertinent part, as follows:

If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m).

The Plaintiff is hereby placed on notice that unless good cause is shown to the Court for his failure to effect service of the Summons and Complaint on Defendants US Mortgage Corporation and Ratestar, Inc. within fourteen (14) days from service of this Order, the Plaintiff's action against these Defendants shall be dismissed without prejudice without further order.

### **ORDER**

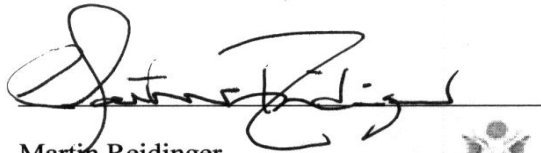
**IT IS, THEREFORE, ORDERED** that the Memorandum and Recommendation [Doc. 33] is **ACCEPTED**; the Defendants' Motions to Dismiss [Doc. 13, 14, 32] are **GRANTED**; and the Plaintiff's claims against the Defendants Bank of America, BAC Home Loans Servicing, LP, The

Bank of New York Mellon, MERSCORP, Countrywide Home Loans, Inc., Home Owners Loan Corporation, and Brock & Scott, PLLC are hereby **DISMISSED**.

**IT IS FURTHER ORDERED** that the Plaintiff shall show good cause in writing within fourteen (14) days of service of this Order for the failure to effect service on the Defendants US Mortgage Corporation and Ratestar, Inc. **Failure of the Plaintiff to respond in writing within fourteen (14) days shall result in a dismissal without prejudice of this action without further order of the Court.**

**IT IS SO ORDERED.**

Signed: May 25, 2013

  
Martin Reidinger  
United States District Judge

